

# House File 281 - Enrolled

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HOUSE FILE 281

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1 3 AN ACT  
1 4 RELATING TO CERTAIN PENALTIES FOR FILING FALSE AFFIDAVITS  
1 5 AND THE TIME FOR EXAMINING AND DETERMINING A CORRECT RETURN  
1 6 UNDER THE STATE INHERITANCE TAX AND INCREASING THE AMOUNT OF  
1 7 PROPERTY THAT MAY BE TRANSFERRED TO MINORS UNDER CERTAIN  
1 8 CONDITIONS AND INCLUDING A RETROACTIVE APPLICABILITY DATE  
1 9 PROVISION.  
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1 11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
1 12  
1 13 Section 1. Section 450.22, subsection 4, Code 2005, is  
1 14 amended to read as follows:  
1 15 4. If a return is not required to be filed pursuant to  
1 16 subsection 3, and if real estate is involved, one of the  
1 17 individuals with an interest in, or succeeding to an interest  
1 18 in, the real estate shall file an affidavit in the county in  
1 19 which the real estate is located setting forth the legal  
1 20 description of the real estate and the fact that an  
1 21 inheritance tax return is not required pursuant to subsection  
1 22 3. ~~If a false affidavit is filed, the affiant and the~~  
1 23 ~~personal representative shall be jointly and severally liable~~  
1 24 ~~for any tax, penalty, and interest that may have been due.~~  
1 25 ~~Any otherwise applicable statute of limitations on the~~  
1 26 ~~assessment and collection of the tax, penalty, and interest~~  
1 27 ~~shall not apply. Anyone with or succeeding to an interest in~~  
1 28 ~~real estate who willfully fails to file such an affidavit, or~~  
1 29 ~~who willfully files a false affidavit, is guilty of a~~  
1 30 ~~fraudulent practice.~~  
1 31 Sec. 2. Section 450.53, subsection 2, Code 2005, is  
1 32 amended to read as follows:  
1 33 2. ~~a.~~ A person in possession of assets to be reported for  
1 34 purposes of taxation, including a personal representative or  
1 35 trustee, who willfully makes a false or fraudulent return, or  
2 1 ~~who willfully fails to pay the tax, or who willfully fails to~~  
2 2 ~~supply the information, necessary to prepare the return or~~  
2 3 ~~determine if a return is required, or who willfully fails to~~  
2 4 ~~make, sign, or file the required return within the time~~  
2 5 ~~required by law, is guilty of a fraudulent practice. This~~  
2 6 ~~paragraph subsection does not apply to failure to make, sign,~~  
2 7 ~~or file a return or failure to pay the tax if a return is not~~  
2 8 ~~required to be filed pursuant to subsection 1, paragraph "b".~~  
2 9 ~~b. If a false affidavit is filed, the affiant and the~~  
2 10 ~~personal representative shall be jointly and severally liable~~  
2 11 ~~for any tax, penalty, and interest that may have been due.~~  
2 12 ~~Any otherwise applicable statute of limitations on the~~  
2 13 ~~assessment and collection of the tax, penalty, and interest~~  
2 14 ~~shall not apply.~~  
2 15 Sec. 3. Section 450.58, subsection 2, Code 2005, is  
2 16 amended to read as follows:  
2 17 2. If an inheritance tax return is not required to be  
2 18 filed pursuant to section 450.53, subsection 1, paragraph "b",  
2 19 the personal representative's final settlement of account need  
2 20 not contain an inheritance tax receipt from the department,  
2 21 but shall, instead, contain the personal representative's  
2 22 ~~statement, under oath, certification under section 633.35 that~~  
2 23 ~~an inheritance tax return is not required to be filed pursuant~~  
2 24 ~~to section 450.53, subsection 1, paragraph "b". If a false~~  
2 25 ~~affidavit is filed, the affiant and the personal~~  
2 26 ~~representative shall be jointly and severally liable for any~~  
2 27 ~~tax, penalty, and interest that may have been due. Any~~  
2 28 ~~otherwise applicable statute of limitations on the assessment~~  
2 29 ~~and collection of the tax, penalty, and interest shall not~~  
2 30 ~~apply.~~  
2 31 Sec. 4. Section 450.94, subsection 5, Code 2005, is  
2 32 amended by adding the following new paragraph:  
2 33 NEW PARAGRAPH. c. The period for examination and  
2 34 determination of the correct amount of tax to be reported and  
2 35 due under this chapter is unlimited in the case of failure to  
3 1 file a return or the filing of a false or fraudulent return or  
3 2 affidavit.  
3 3 Sec. 5. Section 565B.7, subsection 3, Code 2005, is  
3 4 amended to read as follows:  
3 5 3. If ~~no~~ a custodian has not been nominated under section

3 6 565B.3, or all persons so nominated as custodian die before  
3 7 the transfer or are unable, decline, or are ineligible to  
3 8 serve, a transfer under this section may be made to an adult  
3 9 member of the minor's family or to a trust company unless the  
3 10 property exceeds ~~ten~~ twenty-five thousand dollars in value.  
3 11 Sec. 6. RETROACTIVE APPLICABILITY DATE. The sections of  
3 12 this Act amending section 450.22, 450.53, and 450.58 apply  
3 13 retroactively to July 1, 2004, for estates of decedents dying  
3 14 on or after that date.

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3 19 CHRISTOPHER C. RANTS  
3 20 Speaker of the House

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3 22 \_\_\_\_\_  
3 23 JEFFREY M. LAMBERTI  
3 24 President of the Senate  
3 25

3 26 I hereby certify that this bill originated in the House and  
3 27 is known as House File 281, Eighty-first General Assembly.  
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3 30 \_\_\_\_\_  
3 31 MARGARET THOMSON  
3 32 Chief Clerk of the House

3 33 Approved \_\_\_\_\_, 2005  
3 34  
3 35

4 1 \_\_\_\_\_  
4 2 THOMAS J. VILSACK  
4 3 Governor